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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,658	09/26/2005	Jeremy Peter Gorman	D5053-00038	4353

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DUANE MORRIS LLP - Philadelphia  
IP DEPARTMENT  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103-4196

EXAMINER
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SHERWIN, RYAN W

ART UNIT	PAPER NUMBER
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4133

MAIL DATE	DELIVERY MODE
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09/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,658	<b>Applicant(s)</b> GORMAN ET AL.	
	<b>Examiner</b> Ryan W. Sherwin	<b>Art Unit</b> 4133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3 and 5-7 is/are allowed.
- 6) ☒ Claim(s) 2,4,8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/2/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Simultaneous bidirectional timing display.

2. The abstract of the disclosure is objected to because it is not commensurate with claimed invention. Please include bidirectional sequencing. Correction is required.

See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,177,938 (Hamilton) in view of U.S. Patent No. 4,801,928 (Minter).

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With respect to claim 2, Hamilton discloses “A timing display device for use in games or sports, characterized in that the timing display device has a first end, a second end, and at least one intermediate location” (Figure 1, Item 29), while the cited drawing clearly portrays an arched time display with a start, finish, and an intermediate location at the apex of the arch.

Hamilton does not explicitly teach of a “timing display device having a first indicating means which is arranged to move between an intermediate location and the first end, and a second indicating means which is arranged to move between an intermediate location and the second end, the first and second indicating means being arranged to move in unison away from a central intermediate location such that the end of a predetermined time period is indicated by the first and second indicating means reaching the first and second ends respectively.”

Minter discloses the indicating means by way of arrows and unison movement away from a central location (Figure 2, Items 14a and 14b). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the inventions of Hamilton and Minter because, according to Minter, the indicators are easily seen and understood during emergency situations (Column 1, Line 39).

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6. Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,177,938 (Hamilton) in combination with U.S. Patent No. 4,801,928 (Minter) as applied to claim 2 above, and further in view of U.S. Patent No. 4,578,672 (Oota et al.).

With respect to claim 4, Hamilton and Minter teach the timing display of claim 2 as discussed above. Hamilton and Minter do not explicitly disclose a timing display that “comprises a plurality of lights.”

Oota teaches of a group of liquid crystal cells used in a display (Abstract, Figure 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the inventions of Hamilton and Minter using Oota because Oota teaches that it is possible to juxtapose a number of units to create a large display (Column 1, Line 30).

7. Claims 4 and 8 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,177,938 (Hamilton) in combination with U.S. Patent No. 4,801,928 (Minter) as applied to claim 2 above, and further in view of PCT No. 97/07484 (Weisheit et al.). Please note that all citations ensuing refer to the translated PCT No. 97/07484.

With respect to claim 4, Hamilton and Minter teach the display of claim 2 as discussed above. Hamilton and Minter do not explicitly disclose that the lights of the timing display

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are “sequentially turned off from a light adjacent the intermediate location to an outermost light.”

Weisheit expressly teaches of “step-wise fading away of individual segments” (Page 12). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the inventions of Hamilton, Minter, and Oota using Weisheit et al. because, according to Weisheit et al., digital playtime displays are difficult to read at a glance and an optically quick and accurately recorded time display is required (Weisheit et al., Page 4).

With respect to claim 8, Hamilton and Minter teach the display of claim 2 as discussed above. However, Hamilton and Minter do not explicitly teach of “a first time period using lights of one colour and a second time period using lights of another colour.”

Weisheit expressly teaches of an “activated playtime in one color...the last play section in a second color...and the end of the playtime in a third color” (Page 8). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the inventions of Hamilton, Minter, and Oota using Weisheit et al. because an optically quick and accurately recorded time display is required (Weisheit et al., Page 4).

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8. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,177,938 (Hamilton) in combination with U.S. Patent No. 4,801,928 (Minter) as applied to claim above, and further in view of U.S. Patent No. 6,554,724 (Taylor).

With respect to claim 9, Hamilton and Minter disclose a timing display device as described in Claim 2 above. Hamilton and Minter do not teach that the display device is “[mounted] such that the intermediate location is vertically aligned with the centre of the backboard... .”

Taylor expressly teaches a set of indicating lights be mounted on the backboard (Abstract). Also, it is clear that the intermediate location be vertically aligned according to the inner line of 11 lights across the top of the backboard (Figure 5, Item 50). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the inventions of Hamilton and Minter using Taylor because Taylor’s purpose is to provide immediate signaling of an event to provide instantaneous feedback to the player (Column 2, Line 21).

9. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,177,938 (Hamilton) in combination with U.S. Patent No. 4,801,928 (Minter) as applied to claim 2 above, and further in view of U.S. Patent Application Publication No. 2003/0109336 A1 (Oister et al.).

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With respect to claim 9, Hamilton and Minter disclose the timing device of claim 2 as discussed above. Hamilton and Minter do not teach "operating the timing device so as to show a period of 24 seconds."

Oister et al. explicitly disclose a 24 second time period (Paragraph [0016]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the inventions of Hamilton and Minter using Oister et al. because a shot clock that provides a specific amount of time for the offensive team to take a shot is extremely important to the game and recreational participants may even wish to simulate the shot clock (Paragraph [0002]).

***Allowable Subject Matter***

10. Claims 1, 3, and 5 - 7 allowed.

11. The following is a statement of reasons for the indication of allowable subject matter: Claim 1 states "the first and second indicating means being arranged to move in unison towards the intermediate location." The recited claim language is not found in the prior art references. Furthermore, it would not have been obvious to one of ordinary skill in the art to modify the prior art to obtain the recited claim limitation. Therefore, claims 1, 3, and 5 - 7 are allowed.

Regarding the prior art of record, it is well known that the game of basketball requires a shot clock, just as most sports require a timing display or mechanism. For example,



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U.S. Patent No. 2,177,938 (Hamilton) clearly is a sporting display and counts down the time remaining. However, Hamilton teaches a single indicator moving from left to right. The specification of the instant invention clearly discusses the ability to have two indicators moving in unison toward the center, intermediate location in order to give the athlete quick glance capabilities without distorting his or her perception of the game. Therefore, claims 1, 3, and 5 – 7 are allowed over the prior art of record.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Application Publication No. 2003/0109295 A1 (Baba) teaches a horizontal timing gauge with a left and right moving timing indicator.

U.S. Patent No. 5,677,896 (Nunes) teaches an LCD clock above a basketball backboard similar to a basketball shot clock.

German Patent No. 25 54 468 (Hartenstein) teaches a timing display for basketball based on units of 5 seconds.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan W. Sherwin whose telephone number is (571)

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270-7269. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Abul Azad can be reached on (571) 272-7599. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ABUL AZAD/

Supervisory Patent Examiner, Art Unit 4133

/R. W. S./

Examiner, Art Unit 4133